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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,672	10/20/2003	Steven Tsengas	1035	2623

7590 09/16/2005

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EXAMINER

MILLER, WILLIAM L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/688,672

Applicant(s)

TSENGAS, STEVEN

Examiner

William L. Miller

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3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 3,4,8,16,19-24 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) See Continuation Sheet is/are allowed.
- 6) ☒ Claim(s) 8,21/8,22/21/8,23/21/8,24/8,29/8 is/are rejected.
- 7) ☒ Claim(s) 19/8,20/19/8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims allowed are

3,4,16,19/3,19/4,19/16,20/19/3,20/19/4,20/19/16,21/3,21/4,21/16,22/21/3,22/21/4,22/21/16,23/21/3,23/21/4,23/21/16,24/3,24/4,24/16,29/3,29/4,29/16.

## **DETAILED ACTION**

### ***Status of Claims***

1. Claims 3, 4, 8, 16, 19-24, and 29 are pending.

### ***Claim Objections***

2. Claim 21/8 is objected to as it is redundant with claim 8. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 21/8, 22/21/8, 23/21/8, 24/8, and 29/8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saad (US#2868254) in view of Burshtain et al. (US#4871093), and further in view of Bezek et al. (US#6596328).

5. Regarding claims 8 and 21/8, Saad discloses a dispenser comprising: an enclosed container having a top portion 5, base portion 6, and a central portion defined by walls 1-4; the top portion including a first aperture 25 and the bottom portion including a second aperture 12; the central portion including opposing front and rear walls 1,2 and opposing lateral sides 3,4 therebetween, the central portion tapering from the top portion to the base portion; and at least one item, namely granular material, powder, coins, or related objects (col. 1, lines 15-17).

6. Regarding claim 8, although Saad fails to specifically disclose the dispenser is intended to dispense food, Saad does not prohibit the dispenser from dispensing food as Saad broadly

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discloses in col. 1, lines 15-17, the dispenser can be used to dispense granular material, powder, coins, or related objects. Burshtain discloses a similar dispenser for dispensing powder, sweets (food), or pills (food) (col. 1, lines 15-24). Thus, Burshtain equates powder with sweets and pills, both of which are foods for dispensing purposes. Therefore, as evidenced by Burshtain, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the dispenser of Saad by dispensing food for easy metering thereof as food (sweets and/or pills) and powder are known related objects with respect to the dispenser.

7. Regarding claims 8, 22/21/8, and 23/21/8, Saad fails to disclose a plurality of ribs as claimed by the applicant. Bezek teaches a food container comprising an enclosure 100 including ribs 108 to provide a hand grip for the consumer. Therefore, as taught by Bezek, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Saad to include a plurality of ribs adjacent the top portion and/or bottom portion to provide a hand grip for the consumer.

8. Regarding claim 24/8, the small size of the dispenser provides a means for securing the dispenser to an object to facilitate transport, such as the pocket of the consumer.

9. Regarding claim 29/8, Saad discloses the dispenser being made from elastic plastic which is sufficiently strong to maintain its shape but sufficiently flexible to be deformed by the application of pressure thereto (col. 2, lines 30-35). This elastic plastic is thus by definition a "relatively soft pliable polymeric material".

***Allowable Subject Matter***

10. Claims 3, 4, 16, 19/3, 19/4, 19/16, 20/19/3, 20/19/4, 20/19/16, 21/3, 21/4, 21/16, 22/21/3, 22/21/4, 22/21/16, 23/21/3, 23/21/4, 23/21/16, 24/3, 24/4, 24/16, 29/3, 29/4, and 29/16 are allowed.

11. Claims 19/8, 20/19/8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

12. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068. The examiner can normally be reached on Tuesday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William L. Miller  
Primary Examiner  
Art Unit 3677

WLM

A handwritten signature in black ink, appearing to be 'WLM', with a stylized flourish at the end.